

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

JOY MILLER SWONKE §
§
v. § CIVIL ACTION NO. G-02-460
§
JO ANNE BARNHART, COMMISSIONER §
OF SOCIAL SECURITY §

ORDER

Before the Court is Plaintiff Joy Miller Swonke' s Unopposed Motion for Attorney' s Fees under the Equal Access to Justice Act (" EAJA"). 28 U.S.C. § 2412(d). That statute provides, in part, that:

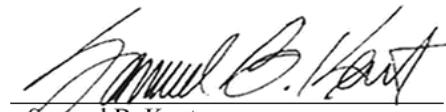
A Court shall award to a prevailing party [in certain suits against the United States] . . . fees and other expenses . . . unless the Court finds that the position of the United States was substantially justified.

28 U.S.C. § 2412(d)(1)(A). Attorneys who successfully represent persons seeking benefits under the Social Security Act fall within the attorney' s fee provisions of the EAJA. *Herron v. Bowen*, 788 F.2d 1127 (5th Cir. 1986).

Plaintiff has submitted an itemized list of services showing that 23.45 hours were expended on this case. The EAJA provides that attorney' s fees shall be limited to \$125 an hour " unless the court determines that an increase in the cost of living . . . justifies a higher fee." 28 U.S.C. § 22412(d)(2)(A). However, Plaintiff has not claimed an increase in this amount based on the Department of Labor' s Consumer Price Index (" CPI"), as calculated for the Galveston/Houston region, which is ordinarily done in cases of this sort. She therefore seeks attorney' s fees in the amount of \$2,931.25 (23.45 hours x \$125). Plaintiff also claims fees of \$219.93.

For all these reasons, the Court finds that Plaintiff's Motion for Attorney's Fees (Instrument No. 27) is **GRANTED** in the amount of \$3,151.18.

DONE in Galveston, Texas, this 14th day of September, 2005.



Samuel B. Kent
United States District Judge